

## RIGHT TO FINANCIAL PRIVACY

### OVERVIEW

The Right to Financial Privacy Act (RFPA) establishes specific procedures for government authorities which seek information from a financial institution about a customer's financial records and imposes limitations and duties on financial institutions prior to the release of information sought by government agencies.

### Examination Objective(s)

The objective for the examination is to:

Ensure that the financial institution's practices are in conformance with RFPA

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### DEFINITION(S)

#### Customer

A customer is defined as any person, or representative of that person, who utilized or is utilizing any services of a financial institution. It also includes any person for whom the financial institution is acting or has acted as a fiduciary. However, a customer **does not** include a corporation or a partnership of six or more individuals.

**EXAMINATION  
PROCEDURES**

| <b>Evaluate Compliance with the RFPA</b>  |   |
|---|---|
| 1.  | Determine whether the financial institution has established procedures and internal controls for fulfilling requests by government authorities for a customer's financial records to ensure that all requests are handled in compliance with the Act. (Section 1100)                              |
| 2.  | Determine whether the financial institution has received any requests covered by the RFPA for a customer's financial records since the last compliance examination. (1103, 1105, 1106, 1107, 1108, 1114)  |
| <i><b>If the financial institution has received such requests since the last compliance examination . . .</b></i> |   |
| 3.  | Determine whether the financial institution provided a customer's financial records to government authorities <b>only</b> after receiving the proper written certification. (1105, 1106, 1107, 1108)  |
| 4.  | Determine whether internal procedures require that the financial institution refrain from requiring a customer's authorization for disclosure of financial records as a condition of doing business. (1103(d)(2) and 1104(b))   |
| 5.  | Determine whether the financial institution keeps appropriate records of instances when a customer's records are disclosed to the government authority upon authorization by the customer, including a copy of the request and the identity of the government authority. (1104(c) and 1113(h)(6)) |
| 6.  | Determine whether the financial institution provides the customer a copy of the records upon request (unless a court order has been obtained blocking such access). (1104(c) and 1113(h)(6))  |
| 7.  | Determine whether the financial institution maintains appropriate records of all disclosures of a customer's records made to a government authority in connection with a government loan, guaranty, or insurance program.   |

**EXAMINATION  
PROCEDURES  
(cont'd)**

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| 8. Determine whether the financial institution allows a customer to examine these records upon request. (1113(h)(6)) |
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**WORKPAPER  
STANDARDS**

Standardized workpapers must be completed when reviewing compliance with the RFPA. Refer to the Standardized Workpapers Appendix in this manual.



**FDIC LAW,  
REGULATIONS  
, & RELATED  
ACTS**

**Applicable Rules**

Title XI – Right to Financial Privacy, Volume 3, Page 8598

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**Advisory  
Opinions**

None

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**Statements of  
Policy**

None

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**DCA  
MEMORANDA**

Amendments to the Right To Financial Privacy Act, Transmittal #89-027,  
dated 2/23/89

General Workpaper Standards and Standardized Workpapers, Transmittal #  
DCA-96-003, dated 1/19/96

Pre-Examination Planning (PEP) Procedures, Transmittal No. DCA-96-013,  
dated 1/31/96

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**FINANCIAL  
INSTITUTION  
LETTERS (FIL)**

None

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